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DATE: FEBRUARY 8, 2002  
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NUMBER OF PAGES INCLUDING COVER SHEET PAGE: 3

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MESSAGE:

*Communication*  
*McKittrick*  
*09/073,643*

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PATENT

GROUP 3600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

McKittrick

Serial Number: 09/073,643

Filed: 05/06/98

For: Garden Tool Having  
Enhanced Leverage  
(as amended)

Examiner Petravick

Group Art Unit 3671

COMMUNICATION

Assistant Commissioner for Patents  
Washington, D.C. 20231COMMUNICATION

It is requested that the Final Office Action be clarified as to the 35 USC § 103 rejection as to the references rejecting the claims. Please refer to the attached circled references indicating that one reference is cited as rejecting the claim in the first sentence, but two references are cited in the rejection of the claim in the paragraph of remarks.

Respectfully submitted,

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02/08/2002

By

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*Hugh D. Jaeger* 2.8.02  
Signature Date

Application/Control Number: 09/073,643  
Art Unit: 3671

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maguire.

Maguire discloses a hand held gardening implement having a frame which comprises the rake handle 18 and center portion 10a of the holder, a rake head (having working elements (tines) capable of piercing the ground at the proximal end of the frame, a brace 10c (figure 3) attached to the center portion 10a of the frame at the distal end, a handle 11 intermediate the working element and projecting away from the frame 18, 10a in the opposite direction as the working element, and the brace 10c is formed of a circular metallic rod stock.

However, a cushion for contacting the forearm on the brace is not specifically disclosed.

Pfister discloses a cushion 20 to the degree as claimed on a brace portion of a hand tool. It would have been an obvious choice in design to provide a cushion as seen in Pfister to the brace Maguire to provide a comfortable rest for the forearm. To provide such a cushion to offer comfort and ease of operation, especially when the tool is being used for an extended period of time or handling a burdensome load would be considered obvious.

Re claim 16, metal tine rakes with a substantially rectangular head (not the fanned-types used in raking leaves) can be used for digging. Hoes can also be used with the implement holder (col. 3, lines 24-32).

Applicant's arguments are deemed moot in view of the present rejection.